

Consideration of approval of nonrule policy document to assist with the process for amending nature preserves articles of dedication; Administrative Cause No. 13-172N

In 1967, the Indiana General Assembly enacted legislation (Acts 1967, c. 266) that has come to be known as the “Nature Preserves Chapter” and is today codified at IC 14-31-1. When dedicating a new nature preserve, the Nature Preserves Chapter requires the Natural Resources Commission to approve articles of dedication that apply to the individual nature preserve. The articles of dedication are implemented largely through a master plan. As management practices advance, and site conditions change, amendments may be needed to the articles of dedication and to the master plan. An example is that prescribed burns are appropriate for some nature preserves but were not authorized by articles of dedication for early nature preserves. The Nature Preserves Chapter has rigorous requirements the Commission must satisfy to approve amendments to articles of dedication. The proposed nonrule policy document would assist professionals within the DNR and NRC in implementing, and the public in understanding, these statutory requirements. The document would help assure the Commission achieves its statutory charge. Information Bulletin #72 is recommended for approval as a new nonrule policy document.

**NATURAL RESOURCES COMMISSION
Information Bulletin #72**

SUBJECT: Nature Preserves Articles of Dedication Amendments

1. Purpose

The purpose of this information bulletin is to assist with consistent implementation of IC 14-31-1-13 that authorizes amendments to articles of dedication for established nature preserves.

2. Statutory Authorities

IC 14-31-1-13 provides in pertinent parts:

With the approval of the governor and upon the terms and conditions that the department [of natural resources] determines, the department may, after the giving of notice and the holding of a public hearing under [IC 14-31-1-16], enter into amendments of articles of dedication upon a finding by the [natural resources] commission that the amendments will not permit:

- (1) an impairment;
- (2) a disturbance;
- (3) a use; or
- (4) a development;

of the area inconsistent with the purposes of [IC 14-31-1 (the “Nature Preserves Chapter))]....

The notice and hearing requirements of IC 14-31-1-16 are set forth in its subsection (b) and subsection (c) as follows:

(b) The notice must be published at least one (1) time in a newspaper printed in the English language with a general circulation in each county in which the nature preserve is located. The notice must do the following:

- (1) Set forth the substance of the proposed action.
- (2) Describe, with or without legal description, the nature preserve affected.
- (3) Specify a place and time not less than thirty (30) days after the publication for a public hearing before the commission on the proposed action.

(c) All persons desiring to be heard shall be given a reasonable opportunity to be heard before action by the commission on the proposal.

3. Procedures prior to Commission Action

(A) If the director of the department’s division of nature preserves determines articles of dedication should be amended for a nature preserve, under the “Nature Preserves Chapter, the division director shall use this information bulletin for guidance. Without further action by the Commission, the division director may elect to seek assistance from the commission’s division of hearings in the conduct of or preparation for the hearing process.

(B) The division director shall cause public notice to be published at least one time in a newspaper printed in the English language with a general circulation in each county in which the nature preserve is located. In compliance with IC 14-31-1-16(b), the notice shall (1) set forth the substance of the proposed action; (2) describe the nature preserve affected; and (3) specify the time and place for a public hearing on the proposed action. The following template may be used as guidance in providing the notice:

Notice of Public Hearing

The Indiana Department of Natural Resources proposes to amend the articles of dedication of the *[name of nature preserve]* located in *[name of any]* county pursuant to IC 14-31-1-13 and IC 14-31-1-16. The proposed amendments are the subject of a public hearing set for *[month, day, and year]* at *[local legal time {EST, EDT, CST, or CDT}]* in *[address or addresses and city or cities of any public hearing]*, Indiana. *[If applicable: During the public hearing, additions of territory and amendments to the master plan of the nature preserve would also be considered.]* Any person may attend the public hearing and be heard concerning the proposals. For more information, please contact *[name and mailing and emailing address of division’s contact person]*.

(C) The division director may conduct the public hearing or may appoint another person to conduct the public hearing. During the public hearing, the hearing officer shall announce the commission may approve amendments to the articles of dedication only upon a finding the amendments would not permit (1) an impairment; (2) a disturbance; (3) a use; or (4) a development of the area inconsistent with the purposes the Nature Preserves Chapter. Each person who appears for the public hearing shall be given a reasonable opportunity to speak. The hearing officer shall provide an opportunity for persons to submit written comments, including by email, through a date that is at least one working day following the hearing.

(D) Following completion of the public hearing and the period for submission of written comments, the hearing officer shall prepare a written report of the public hearing that includes:

(1) A transcript or a summary of public comments made during the public hearing.

(2) Written comments received during the announced comment period.

(3) The purposes of any amendments to the articles of dedication, and a recommended finding to the commission which complies with IC 14-31-1-13 with respect to the proposed amendments.

(4) Any other matter the hearing officer believes would assist the commission in making a full and fair determination under the Nature Preserves Chapter.

(E) The division shall tender the written report to the commission for inclusion on the agenda of a public meeting. Upon request by an interested person, the division shall indicate how the person may receive an email notification of the commission's public meetings.

4. Action by the Commission

(A) During a public meeting, the commission may consider any matter set forth in the report of public hearing and any additional department presentation. Within the discretion of the commission chair, and to the extent practicable, the commission may receive oral comments from the public. To approve amendments to the articles of dedication, the commission must approve a finding the amendments will not permit:

- (1) an impairment;
- (2) a disturbance;
- (3) a use; or
- (4) a development;

of the area that is inconsistent with the purposes of the Nature Preserves Chapter.

(B) If the commission approves amendments to the articles of dedication, the division shall submit the approval and any supporting documentation to the governor.